



Town of Tyngsborough
Zoning Board of Appeals
Town Hall-25 Bryants Lane
Tyngsborough, MA 01879-1003
(978) 649-2300, Ext. 115

TYNGSBOROUGH ZONING BOARD OF APPEALS MINUTES

June 11, 2015

APPROVED

Attachments:

1. Meeting Agenda
2. Habitat for Humanity of Greater Lowell ReStore Flyer
3. 48 Frost Rd. ZBA Application – 5/15/15
4. Tyngsborough Town Dept. Comments for 48 Frost Rd.
5. 497 Dunstable Rd. ZBA Application – 5/15/15
6. Tyngsborough Town Dept. Comments for 497 Dunstable Rd.
7. Letter from Landplex regarding Westford Rd. & Westech Dr. (mini storage warehouse) – 4/7/15
8. Revised Plan Set for Westford Rd. & Westech Dr. (mini storage warehouse) – 3/24/15
9. Master Site Plan for Wes-Tech Industrial Condominiums – 12/30/87
10. Building Rendering for Westford Rd. & Westech Dr. (mini storage warehouse)- 3/6/15
11. Letter of opposition to Westford Rd. & Westech Dr. (mini storage warehouse) from Robert Fragala – 6/11/15
12. Tyngsborough Town Dept. Comments for Westford Rd. & Westech Dr. (mini storage warehouse)
13. Nicosia & Associates letter of project withdrawal for 160 Pawtucket Blvd.- 6/11/15
14. Image of newly installed gate at Maple Ridge
15. Pictures of light posts by Harvey Miller – 6/11/15

Members Present: Robb Kydd, Vice Chairman
Joe Polin
Chris Mechalides
Adriana Gioumbakis
Chaz Doughty
Pamela Berman, Administrative Assistant

Members Absent: Claire Cloutier

6:30pm Meeting was called to order by Vice Chairman R. Kydd

Brenda Gould – Habitat for Humanity

Habitat for Humanity of Greater Lowell Executive Director Brenda Gould introduced herself to the Board and briefed them on a new store coming to Tyngsborough where you'll be able to donate, volunteer and shop, and where all funds raised will provide direct support to Habitat for Humanity's mission of building and repairing affordable homes in the community.

Hearing #1

48 Frost Rd. (Map 20B, Parcel 3, L0) – Request by Danielle Leclair, applicant, for a Variance from the requirements of Section 2.12.50 (lot area) and a Special Permit under Section 2.15.24 of the Tyngsborough Zoning By-Laws for the proposed construction of a 2,945 s.f. 2nd floor addition in an R-1 Zone. *Advertised in the Lowell Sun Thursday May 28, 2015 and Thursday June 4, 2015.*

C. Doughty: Motion to waive the reading of the abutters list.

C. Mechalides: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Homeowners and applicants Danielle and Kenny Leclair appeared before the Board. Ms. Leclair explained that they wish to add a second floor addition onto the existing home which will improve the overall layout of the home. The addition will have two new bedrooms that will replace two of the existing bedrooms on the first floor which will be re-purposed for a total of 3 bedrooms. They have submitted a Deed Restriction per request of the Board of Health in order to ensure that the septic system remains compliant. There were no abutters present to speak for or against this project.

J. Polin: Motion to close the public portion of the hearing.

C. Mechalides: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Open Discussion by the Board and Q&A to Applicant with Applicant responses

- The Board felt that the hardship is viable, and that this project would be an improvement for that lot.
- A deed restriction is required by the Board of Health due to the septic system
- Adding to the height of the existing dwelling, but there would be no change to the existing footprint of the home.
- Two existing bedrooms will be re-purposed, for a total of 3 bedrooms.

Review Notes/Comments on Application from other Tyngsborough Departments

Building Inspector: No adverse comments at this time

Conservation: No comment

Assessor: No adverse comments

Planning Board: No Comment

Fire Dept.: OK

Sewer: No sewer

Highway Dept.: No comment

Board of Health: Septic system is restricted to 3 bedrooms. Any increase in # of bedrooms will require an upgrade of septic system to support # of rooms.

Tax Collector: No delinquent taxes

Board of Selectmen: The BOS voted to make no comment at their June 8, 2015 meeting.

C. Mechalides: Motion to approve; 48 Frost Rd. Assessors Map 20B, Parcel 3, Lot 0 a Variance for from the requirements of Zoning By-Laws for square footage in an R-1 Zone, from required 65,000 sq. ft. to 31,000 sq. ft. as shown on plan view dated 5/12/15.

J. Polin: 2nd

In Favor: 5 Opposed: 0

Passes: 5-0

C. Mechalides: Motion to approve; 48 Frost Rd. Assessors Map 20B, Parcel 3, Lot 0 request for a Special Permit under Section 2.15.24 to construct a 2,945 sq. ft. 2nd floor addition on and existing single family home as shown on plan view dated 5/12/15.

J. Polin: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 0

Hearing #2

497 Dunstable Rd. (Map 14, Parcel 24, Lot 0) – Request by Adam & Kristy Connery, applicants, for a Special Permit under Section 2.15.24 of the Tyngsborough Zoning By-Laws for the proposed construction of a 26' x 45' addition, and the construction of a 2nd floor addition to the existing home in an R-1 Zone. *Advertised in the Lowell Sun Thursday May 28, 215 and Thursday June 4, 2015.*

J. Polin: Motion to waive the reading of the abutters list.

C. Doughty: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Homeowners Adam & Kristy Connery appeared before the Board and explained that they wish to add a second floor addition onto the existing home. The current garage, and a portion of the existing house & deck will be razed which will allow for a better designed configuration for the house, but will not increase the footprint.

C. Mechalides: Motion to close the public portion of the hearing.

J. Polin: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Open Discussion by the Board and Q&A to Applicant with Applicant responses

- The Board felt that the pre-existing non-conformity was a viable hardship.
- Home is not on sewer, however it is available. Therefore, no additional bedrooms are allowed unless home is tied-in to sewer.

Review Notes/Comments on Application from other Tyngsborough Departments

Building Inspector: No adverse comments at this time

Conservation: No comment

Assessor: No adverse comments

Planning Board: No Comment

Fire Dept.: OK

Sewer: Sewer available: E-one pump and force main

Highway Dept.: No comment

Board of Health: No engineer septic plan on file must provide BOH septic plan prior to addition. Septic system must be able to support # of bedrooms. Note: Sewer is available.

Tax Collector: All taxes are current

Board of Selectmen: The BOS voted to make no comment at their June 8, 2015 meeting.

C. Mechalides: Motion to approve; 497 Dunstable Rd. Assessors Map 14, Parcel 24, Lot 0 a special permit under Section 2.15.24 to construct a 26' x 45' addition and to construct a 2nd floor addition on and existing single family home as shown on plan view dated 5/14/15.

A. Gioubakis: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Hearing #3

65 Tyng Road (M27, P4, L0) – Request by Tyng Road Development, LLC, applicant for a Comprehensive Permit pursuant to Chapter 40B of the Massachusetts General Law, and the Tyngsborough Zoning By-Laws Section 1.13.23 for the development of a residential housing community that will contain 28 units of residential housing on a 4.22 acre site to be named “Tyng Village”. *Advertised in the Lowell Sun Thursday November 27, 2014 and Thursday December 4, 2014. Continued from May 14, 2015.*

C. Mechalides sat out of this hearing.

Atty. Doug Deschenes appeared. Board Atty. Adam Costa reviewed the Draft Decision with the Board. All issues and concerns have been addressed. There were no additional resident comments for or against the project.

C. Doughty: Motion to close the public portion of the hearing.

A. Gioubakis: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

A. Gioubakis: Motion to grant a Comprehensive Permit for construction, at 65 Tyng Road, to be known as Tyng Village of 24 2-bedroom, and four 3-bedroom units of housing in 15 buildings per site plans entitled “Site Development Plan, Tyng Village, Tyngsboro, Massachusetts,” prepared by Land Engineering & Environmental Services, Inc., dated 10/31/14 and revised through 5/7/15.

J. Polin: 2nd the motion

Roll Call Vote

R. Kydd: In Favor

J. Polin: In Favor

C. Doughty: In Favor

A. Gioubakis: In Favor

Passes: 4-0

Hearing #4

Westford Rd. & Westech Dr. (Map 22, Block 27A) – Request by FMP Realty Trust, applicant, for a Variance from the requirements of Section 2.12.50 of the Tyngsborough Zoning By-Laws (lot area, maximum building height) for the proposed construction of a self-storage mini warehouse facility in an I-1 Zone. *Advertised in the Lowell Sun Thursday January 29, 2015 and Thursday February 5, 2015. Continued from May 14, 2015.*

Atty. Peter Nicosia, Landplex engineer Matt Hamor, developer Frank Polak, and property owner Ed Duffy appeared before the Board. Revised plans dated 3/24/15 were submitted that included revisions per the Board’s comments at the March 12th meeting. The revisions included the following: an increase to the proposed front yard setback to 21 ft., which is up from the original 15 ft. An additional landscape plan was added. The curb-cut to the middle median on Westech Dr. was widened. The location of the proposed dumpster was moved on the site. Atty. Nicosia added that after re-evaluating the site plans, they ended up pushing back the building 6 ft. thereby decreasing the variance request; they do conform to the height requirement and are not looking for a variance on that issue.

Several business owners from Westech Dr. were vehemently opposed to the project and spoke against it citing problems with the extreme front setback relief requested, site hydrology, road access and the cut-through proposed for the median, power lines, snow storage and the large size of the building so close to the road and entrance to the Westech park.

J. Polin: Motion to close the public portion of the hearing.

C. Doughty: 2nd the motion

In Favor: 5 **Opposed:** 0

Passes: 5-0

Open Discussion by the Board and Q&A to Applicant with Applicant responses

- The Board felt that the proposed size of the building was rather extreme for the proposed location, and the narrow front setback was too much. Although the topography lends to the difficult placement of the building, a smaller building could certainly be designed that would be more conforming to the zone.
- The Board felt that a clarification was needed concerning the “actual” building height, and the requirement for a height variance which was omitted from the submitted application. The Board added that they felt that the plans were deficient in delineating the actual height of the proposed building.
- Several Town departments had submitted concerns with the project; see Dept. Comments.

Review Notes/Comments on Application from other Tyngsborough Departments

Building Inspector: No comments at this time

Conservation: Stormwater Permit likely

Assessor: Entrance looks to be from Westech Dr., which is private part of Westech Industrial Condo. Trust. Is permission or an easement needed from Condo Association?

Planning Board: Will require a Special Permit with site plan review.

Fire Dept.: Questions regarding the height of the building and room for Fire Dept. response access.

Board of Health: Board of Health requires septic permit

Sewer: No Sewer available

Highway Dept.: No comment

8:20pm

Atty. Nicosia requested a five minute recess.

8:25pm

After conferring with his client, Atty. Nicosia requested to withdraw this application for consideration without prejudice.

C. Mechalides: Motion to accept the request to withdraw this application for consideration without prejudice.

A. Gioubakis: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Hearing #5

160 Pawtucket Blvd. (dba, Stonehedge Inn) – Request by Boston East Tyngsboro Holdings, LLC, applicant, for a Variance from the requirements of Section 3.10.24 (Table of Off-Street Parking Requirements), and a Special Permit under Section 2.15.22 (Non-Conforming Structure: Changes, Extensions and Alterations) of the Tyngsborough Zoning By-Laws for the proposed construction of a 7,100 s.f. wedding banquet facility in an R-1 Zone. *Advertised in the Lowell Sun Thursday January 29, 2015 and Thursday February 5, 2015. Continued from May 14, 2015.*

Atty. Nicosia submitted a request to withdraw this application for consideration without prejudice.

C. Mechalides: Motion to accept the request to withdraw this application for consideration without prejudice.

J. Polin: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

ADMINISTRATIVE

New Business: Villages of Maple Ridge Punch List Update – Walter Eriksen

Maple Ridge representative Harvey Miller updated the Board on the status of the punch list.

- The gate has been installed and the Police Dept. has a key in case of emergencies. However, the Association contends that the gate was put in the wrong spot.
- The street lights were installed; however they were installed with a separate meter for each light, and it doesn't look good.
- There still remains an area open space between 21 & 27 Steinbeck St. that needs to be graded and seeded.

Walter Eriksen was not present at this meeting but will be requested to address any lingering concerns at the next meeting July 9th.

Due to Town computer server problems, there were no minutes available to approve.

8:50pm

C. Mechalides: Motion to adjourn

J. Polin: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Minutes respectfully submitted by
Pamela Berman, ZBA Administrative Assistant